

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF MISSISSIPPI
GREENVILLE DIVISION**

UNITED STATES OF AMERICA,

VS.

CRIMINAL ACTION NO. 4:06CR104-P-B

**JENNIFER YVONNE BERRY,
JOHNNIE LEE WINFIELD, AND
REHAB SOURCE, INC.,**

DEFENDANTS.

ORDER CONTINUING TRIAL

This matter comes before the court upon Defendant Jennifer Berry's fourth Motion to Continue [65]. After due consideration of the motion the court finds as follows, to-wit:

Trial is currently set for all defendants on October 1, 2007. Counsel for Defendant Berry avers that he has a previously scheduled trial date in State court that conflicts with the current trial date set this matter.

The Government objects to the continuance on the grounds that (1) trial in this case has already been continued five times; (2) a number of the Government's victim witnesses are elderly and due to their age, continuing passage of time may adversely affect their memories and/or health; and (3) another continuance would put the trial date closer to the period counsel for Defendant Berry will have to serve in the Mississippi Legislature.

The court concludes that the Government's grounds for denying the continuance are persuasive. However, it is undisputed that counsel for Defendant Berry had a case previously scheduled for the subject trial date. Therefore, the court will grant the continuance, but only for a short period of time to assuage the Government's concerns discussed above.

The above circumstances enable the Court to exclude, pursuant to 18 U.S.C. section 3161(h)(8)(A), the period of delay from October 1, 2007 until the new trial date to be set in this matter. The time is excludable under subsection (h)(8)(A) because, given the circumstances described above, a continuance is necessary to afford the defendant's counsel more time to adequately prepare for his client's defense. As such, the ends of justice served by the granting of this continuance outweigh the best interests of the public and the defendant in a speedy trial.

IT IS THEREFORE ORDERED AND ADJUDGED that:

- (1) Defendant Jennifer Berry's fourth Motion to Continue [65] is hereby **GRANTED**;
- (2) Trial of this matter is continued as to all defendants until Monday, November 5, 2007 at 9:00 a.m. in the United States Courthouse in Greenville, Mississippi;
- (3) The delay from October 1, 2007 to November 5, 2007 is excluded from Speedy Trial Act considerations as set out above;
- (4) The deadline for filing pretrial motions is October 15, 2007; and
- (5) The deadline for submitting a plea agreement is October 22, 2007.

SO ORDERED this the 30th day of July, A.D., 2007.

/s/ W. Allen Pepper, Jr.
W. ALLEN PEPPER, JR.
UNITED STATES DISTRICT JUDGE